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Best Quality and lots more at...

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ANSWER TO MANDAMUS

Gear Renders Two Criminal Law Decisions.

Jones Indictments Are Subject of New Demurrers.

Judgment on Note by Default, Supreme Court Recess Till Monday.

District Magistrate Lyle A. Dickey has answered the petition of E. O. Hall & Son, Ltd., for a writ of mandamus. He says that the judgment which was rendered by the District Court is voidable, as the amount of the judgment rendered is over the \$300 limit allowed by law in which that court has jurisdiction. He also says that there is no law commanding defendants in civil suits in district courts to make affirmative defense in court before any cause can be appealed. Judge Dickey cites an opinion of the Supreme Court to sustain his position, and states that the plaintiff is shown, on the face of the writ of mandamus, to have no standing in the Supreme Court.

CRIMINAL DECISIONS.

Judge Gear rendered two decisions yesterday on criminal matters. One of them was to deny the motion to quash the two murder indictments of Edward M. Jones. The other was to direct a verdict of acquittal in favor of Fisher, Buckley and Nery, the U. S. soldiers indicted for burglary.

Counsel for Jones filed a demurrer to the indictments, which will be argued this morning.

The ground of the motion that set the three house-breakers free was that the statute of burglary does not cover petty larceny, and the defendants were alleged to have taken only a few bottles of beer from Moony's saloon, Wai-kiki, after breaking into it. Burglary is defined in Hawaiian law as breaking into a place with intent to commit a felony. Formerly there was a provision including intended larceny, but in amending the law this was dropped out.

CIVIL JURY CASES.

Judge De Bolt yesterday resumed the trial of the suit of Bishop Estate vs. Lullia by jury.

Judge Robinson called for trial the case of Lucy K. Peabody vs. Emily P. Judd et al., but ran out of jurors. A special venire for twenty-five men was issued, returnable this morning.

JUDGMENT BY DEFAULT.

Bishop & Co. have been given judgment by default against Sing Lung Co. and Lee Chu on a promissory note for \$507.28 at 7 per cent., dated February 17, 1903, on which but \$50 had been paid. Judge Gear made the order on motion of Thayer & Hemenway.

INSURANCE CASE.

In the case of Kwong Lee Yuen Co. vs. Manchester Fire Assurance Co., Hatch & Ballou for plaintiff and Robertson & Wilder for defendant stipulated that the testimony of Brother Bertram and G. C. Potter, witnesses for plaintiffs, and W. Blaisdell, C. B. Wilson, F. Davey, C. F. Peterson, A. M. Brown and J. Lucas, witnesses for defendant, is immaterial upon the questions taken on appeal to the Supreme Court.

STIPULATIONS.

Magoon and Lightfoot for plaintiff and Rawlins for defendant, in the equity suit of Aimanumanu vs. Aimanumanu Lahela have ten days from October 5 in which to plead, etc.

Bitting for plaintiff in the suit of Eliza R. P. Holt, a minor, by Annie Holt Kentwell, her relative and guardian, vs. Albert Christian, stipulates that defendant may have until the 10th inst. to plead, etc.

COURT NOTES.

The Supreme Court will not sit again until Monday next.

D. W. Anderson, administrator, has filed an inventory of the estate of Daniel O'Leary, deceased. Besides \$214 in cash there are a few personal belongings.

Return of service was made Monday by Deputy Sheriff McGurn in the suit brought by the Henry Waterhouse Company, Ltd., trustee for the Herrick Carriage Co., against Jonah Kalaniana'ole. The action is to recover \$518 due on a note dated March 8, 1903.

A RECENT DISCOVERY.

Among the most magnificent and extensive architectural ornaments of the Romans were the baths erected by the different emperors for the use of the populace, and the vast ruins still exist-

ing testify to their great size and the unparalleled luxury of their arrangements. The public baths of Pompeii were uncovered in 1824 and the complete internal arrangement disclosed, which is probably similar to, though on a smaller scale than those of Rome. The public bath was common in Greece during the historic period, and they were in use at Rome from early times, each bath was built entirely of stone and polished marble, and all of the apartments were beautifully ornamented with mosaics, and profusely adorned with paintings. One of Caracalla's baths was capable of allowing 18,000 people to bathe at one time. In Honolulu the only bath is Bath the Plumber and his Douglass Closet.

HATS OFF.

Facts About the American Indian's Healthy Hair.

The American Indian accustomed from time immemorial to go bareheaded in all kinds of weather is never troubled with falling hair or baldness. The close atmosphere caused by our "civilized" head-gear is conducive to the breeding of infinitesimal germs which dig into the scalp and thrive on the sap of the hair-root.

This true cause of baldness is of recent discovery and explains the non-success of all hair-vigors which treated baldness as a functional disorder.

Newbro's Herpicide is a direct exterminator of the germ. "It destroys the cause and permits the hair to grow as nature intended."

Sold by leading druggists. Send 10c. in stamps for sample to The Herpicide Co., Detroit, Mich. Hollister Drug Co., Special Agents.

W. H. PAIN SUED FOR ACCOUNTING

A suit was brought yesterday in the Circuit Court by Lillie Leonora Neumann against W. H. Pain, which is a bill to declare a trust for a conveyance and an accounting. The plaintiff contends that on or about November 14, 1898, Wm. H. Pain made, executed and delivered a declaration of trust in words and figures, as follows: "Honolulu, Nov. 14, 1898. I hereby declare that I hold in trust for Lillie Leonora Neumann the undivided one-half of the lot located to me by John P. Paty and situate on Liliha street, Honolulu, being the property sold under sale of foreclosure by Wm. Stolz. This declaration is made in consideration of the payment by Paul Neumann of the half of the purchase price.

(Signed) W. H. PAIN.

"In presence of "Paul Neumann."

The plaintiff says that by virtue of this trust, the defendant became her trustee for the land so described which contains 48-100 of an acre more or less.

On January 31, 1903, the plaintiff declares that Pain executed and delivered a mortgage for his own use and benefit to S. M. Damon, H. E. Waity and S. E. Damon, copartners doing business as Bishop & Co., in which mortgage the land in question was included. The plaintiff declares this action was a breach of trust. She states she has demanded of W. H. Pain the conveyance to her of the land so held in trust and has tendered him the form of a deed for execution and one dollar but he has refused to execute the instrument.

The plaintiff asks that the court order Pain to convey the property.

MORRIS RECEIVED A GOLD BRICK

When Morris Keohokalole, secretary to Prince Cupid, departed for Washington on the Siberia, his friends determined that he should not buy gold bricks at San Francisco. When Morris was not looking his valise was opened and a big stone, covered with gilt, in imitation of a gold nugget, was slipped in. The weight of the valise was explained as being the contents of several cold bots. Morris found the nugget before sailing and placed it on exhibition in the saloon. He promised to look out for the bunko men.

H. E. HENDRICK SELLS BUSINESS

H. E. Hendrick on Monday sold out the business of the Hawaiian Iron Fence and Monument Company to Carl M. Lovsted for the consideration of \$5500. The purchaser took possession and the bill of sale was recorded yesterday morning. Percy M. Pond negotiated the transaction.

An appeal to the Supreme Court is pending against the verdict of a jury rendered last Saturday, which awarded \$5000 damages to J. C. Axtell against Mr. Hendrick for malicious prosecution.

FOOTBALL LEAGUE TO BE FORMED

A meeting of representatives of the Punahou, Honolulu Athletic Club, Maile Ilia and Artillery football teams will be held tomorrow evening at 7:30 o'clock at the Y. M. C. A. to organize a football league for the coming season. James is the Maile Ilia captain, and it is said that Reuter, pitcher for the Kamehameha baseball team, will play with the Maile Ilia football team.

THE PHELPS LIBEL SUIT

Berger Abandons Claim Against E. F. Bishop for \$113,000.

Judge Estee began trying the admiralty suit of Julius A. Schirmacher against the ship Erskine M. Phelps. One witness was called before the court adjourned for the day, whose evidence supported the main allegations of the bill. Plaintiff was a seaman on the ship and had his leg broken while the Phelps was rounding Cape Horn. He brought a libel for \$10,000 personal damages on the alleged grounds that he was not treated well after being hurt, either on the voyage or after getting into Honolulu harbor; that the vessel did not put into the nearest port after the accident for surgical aid, and that his injuries permanently disabled him from earning a livelihood. J. J. Dunne appears for the sailor and R. W. Breckons for the ship.

Yesterday morning the Korean cases came to an end in the United States District Court. They were one hundred and thirteen in number, brought by F. V. Berger against E. Faxon Bishop, of C. Brewer & Co., Ltd., claiming \$1000 penalty for each of that number of Koreans alleged to have been brought into this Territory for labor purposes by means contrary to the United States immigration laws.

Since the suit was brought several months ago, various pleadings have been fought out. A knock-down blow came to the plaintiff last week, when Judge Estee sustained the latest demurrer of the defendant. He held that the illegal acts complained of must have been committed subsequent to March 3, when the Act of Congress allowing such a suit went into effect. This destroyed many if not all of the cases. Berger, by his attorneys, Thayer & Hemenway, yesterday filed a statement that no amended complaint would be entered, in consequence of the decision just mentioned. It was also set forth that the defendant was going to pay the costs and expenses amounting to \$1,445.93. Smith & Lewis for defendant then moved for judgment dismissing the cases, which Judge Estee granted.

Had the cases come on for trial the jury would have had hard work cut out for them for a few weeks, as different sets of proof would have been required for distinct series of the cases.

He had risked his life to rescue the fair maid from a watery grave, and, of course, her father was duly grateful. "Young man," he said, "I can never thank you sufficiently for your heroic act. You incurred an awful risk in saving my only daughter." "None whatever, sir," replied the amateur life-saver: "I am already married."—Chicago Daily News.

HEALTH NEEDFUL

to happiness. Well might the greatest and wisest Man that ever lived teach us to pray, "Give us this day our daily bread." The hands, with which we do so many cunning and skillful things, the eyes that reveal to us all the sun shines on, the hearts which beat within our breasts, were once merely the yet uneaten food upon our plates. What a strange, what a wonderful transformation! The body builds itself! No other machine can do so. Yet when the wear and tear becomes greater than the process of repair we grow weak and waste away. If we could keep the loss and the gain balanced, or nearly so, we should live long and be able to work and enjoy ourselves all the time. The opposite condition we call sickness or disease. To keep the wheel turning, to prevent permanent loss of flesh and power, is the aim of that ever-succinct remedy known as

WAMPOLE'S PREPARATION

It quickly and quietly removes the waste matters from the system, promotes the marvelous change called digestion, expels the impurities and disease germs from the blood and furnishes what the body needs to make it strong and healthy. Being palatable as honey or sugar the most sensitive palates accept it freely—even those of delicate women and young children. It contains the nutritive and curative properties of Pure Cod Liver Oil, extracted by us from fresh cod livers, combined with the Compound Syrup of Hypophosphites and the Extracts of Malt and Wild Cherry. It is a specific in Lung Troubles, Influenza, La Grippe, Anemia, Scrofula and all affections caused by impure blood. No failure. Effective from the first dose. "You cannot be disappointed in it." Sold by all chemists here and throughout the world

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Auction Sale OF Delinquent Stock IN THE Concrete Construction Co., LTD.

WEDNESDAY, OCT. 7, AT
NOON

By order of the directors of the Concrete Construction Company, Limited, and acting for them, I hereby give notice, that I intend to sell and will sell, at public auction, on Wednesday, October 7th, 1903, at 12 o'clock noon, at the salesroom of James F. Morgan, Nos. 847 to 857 Kaahumanu street, in Honolulu, Island of Oahu, Territory of Hawaii, United States of America, eighty-five (85) shares of the capital stock of said company, or a sufficient number of said shares to pay the amount due thereon, said shares being contained in Certificate No. 5, and duly issued to C. Leonard, of the City of Los Angeles, in the State of California, upon which there is due and owing said company a balance of an assessment of twenty (20) per cent., amounting to the sum of one thousand and twenty dollars (\$1,020), which said assessment was duly levied on the 12th day of December, 1900, and remains unpaid, said sale to take effect as aforesaid, unless said assessment, with interest thereon, the cost of this publication, and the auctioneer's fee, is paid on or before the day and hour of said sale.

Dated September 7th, 1903.
E. P. CHAPIN,
Treasurer The Concrete Construction Co., Ltd.

JAS. F. MORGAN,
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Per dozen, \$2.25. Per bottle, 20c.
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Cases of 50 pints, \$5.50 per case. Per dozen, \$1.50. Two bottles for 25c.
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a front of 80 feet on the main gov-
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the stream. Contains 1.87-100 acres.
Lease has 19 years to run.
Elegant for a country residence; a
fine bathing pool can be had at the
stream.

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